

LICENSE EXEMPT REGULATED VENDOR
MEMORANDUM OF AGREEMENT

Between

Commonwealth of Virginia Department of Social Services (DSS)

and

(Vendor)

This Memorandum of Agreement (Agreement) shall be in effect from _____ through _____ with two optional one-year renewals. The following terms will govern the purchase of child care services on behalf of the parents utilizing Voluntarily Registered Homes, Religiously Exempt Centers or Certified Pre-Schools. The Child Care Subsidy Program administered by the local DSS is a program designed to assist working parents with the cost of child care services. Contracts between the parent and the Vendor are not the responsibility of the DSS.

Business Name		Owner's Name (if different from Business)	
Vendor #		Name as appears on Social Security Card	
Social Security Number (Optional)			
Individual Tax Identification Number (ITIN) or Employer Identification Number (EIN) if applicable			
Name as it Appears on ITIN or EIN if applicable			
Vendor's Landline/Business Phone	Cell Phone		Vendor's County/City (Locality)
Mailing Address		City	State Zip
Vendor's Physical Address		City	State Zip
Email Address			

Type of Vendor:

- ☐ Voluntarily Registered Family day Home ☐ Certified Pre-School
- ☐ Religiously Exempt Child Care Center

1. PURPOSE

This Agreement is a contract between the Department of Social Services (DSS) and _____ (Vendor) regarding services to be rendered by the Vendor to child care clients of the DSS for whom child care subsidy payments will be authorized and paid.

2. TERMS OF THE AGREEMENT

- 2.1. This Agreement may be terminated without cause and without cost by either party with written notice.
- 2.2. The Vendor must notify the DSS within 24 hours if their legally operating status ends during the Agreement period.
- 2.3. If the Vendor's legally operating status becomes invalid for any reason, payment shall not be issued for services rendered after that date. Subsidy payments can be made only to legally operating Vendors. The last day on which the legally operating status is valid is the last date for which payment may be authorized. The local DSS shall issue a termination Purchase of Services Order (POSO) to advise the Vendor of the effective date of the termination.
- 2.4. If this Agreement is terminated, the DSS shall be liable for payment of only those services rendered before the effective date of termination.
- 2.5. Neither the Vendor nor its employees shall be deemed employees of the DSS while performing under this Agreement. The DSS will issue an IRS form 1099 annually to document vendor payments that total at least \$600.
- 2.6. Vendor agrees to hold the local Department of Social Services and the DSS harmless from any and all claims for damages, either in law or equity, directly or indirectly, arising out of or by virtue of the actions or inactions of the Vendor or its agents, servants, or employees in connection with this Agreement. [Exception: section 2.6 does not apply to local government operated child care facilities.]
- 2.7. The Vendor agrees to notify the DSS immediately should they cease to operate at the physical address shown at the beginning of this Agreement.
- 2.8. Vendor records not accessible or up to date could result in an overpayment according to this Agreement.
- 2.9. The Vendor agrees to provide the following:
 - 2.9.1. Substitute for W-9 Form
 - 2.9.2. Weekly service rates (if less than the local maximum reimbursable rate)
 - 2.9.3. Child Care Program Provider Self-Certification Form, completed annually, indicating the completion of all required certifications/trainings.
- 2.10. Vendor agrees to provide the child care as the designee on this Agreement. This Agreement does not constitute permission for anyone else to act as a substitute care provider.
- 2.11. Vendor will afford parents unlimited access to their children when they are in care.
- 2.12. Vendor will afford state and local social services department staff unlimited access to children in care when one or more children in care receive a child care subsidy.
- 2.13. The Vendor agrees to notify the local DSS immediately for any of the following reasons:

- 2.13.1. The child does not attend on the first authorized day of care.
- 2.13.2. The parent is not current on the co-pay.
- 2.13.3. The child is officially withdrawn from enrollment.
- 2.13.4. The child is absent for more than five consecutive days.

3. RATES/HOLIDAYS

- 3.1. DSS has established maximum reimbursable rates for child care services for all localities in the state by type of care. Rates shall be based on the maximum reimbursable rate of the locality in which the vendor is located. DSS will pay the rates and fees vendors charge the general public, up to the maximum reimbursable rate.
- 3.2. Vendor agrees they will not bill the DSS at a rate which is higher than that charged to the general public.
- 3.3. The DSS will not pay a rate higher than the local Maximum Reimbursable Rate (MRR). Any amount charged the general public above the MRR is the responsibility of the family. Exception: for children with special needs, payment of up to two times the MRR for the child's age is allowed when it is appropriate as determined by the local department in consultation with the parent, vendor, and appropriate professional.
- 3.4. Maximum Reimbursable Rates may be adjusted only by the DSS.
- 3.5. Vendor agrees to notify the DSS 60 days prior to changing rates. Such notification may not effect a change in authorized payment amounts. See General Conditions – Availability of Funds.
- 3.6. DSS shall pay for ten (10) holidays when the Vendor is closed and only if the general public is charged the same. These holidays are as follows:

New Year's Day	Labor Day
Martin Luther King Day	Veterans Day
President's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

4. ATTENDANCE RECORDS

- 4.1. Vendor shall keep attendance records in accordance with this Agreement. Records not accessible or current could result in an overpayment and would have to be repaid by the Vendor.
- 4.2. Attendance procedures shall be as follows:
 - 4.2.1. Maintain all original attendance records and reports required by these regulations up-to-date for a period of 3 years.
 - 4.2.2. Record attendance on ECC, an electronic state system for tracking time and attendance utilizing point of service (POS) hardware devices.
 - 4.2.3. Make records accessible to inspection by the local DSS, local DSS authorized agents, Department of Social Services' staff/agents, local staff/auditors, and state/federal auditors upon request.

- 4.3. Vendor shall never be in possession of or swipe a client's VA-ECC card through the POS device.
- 4.4. Vendor shall never move the POS device to another facility without receiving prior written approval from the DSS.
- 4.5. Vendor shall require clients to swipe attendance as care is used;
- 4.6. Vendor shall never ask or require a client to swipe attendance for a day the child does not attend.
- 4.7. Vendor shall ensure that claimed attendance submitted via the Electronic Child Care system is correct and void any incorrect transactions within the nine day swipe limit, current day and previous eight days.

5. COMPENSATION

- 5.1. Payment for child care services will be based on:
 - 5.1.1. A completed and signed Purchase of Services Order dated within the start and end dates of this Agreement.
 - 5.1.2. All terms of this signed Agreement.
- 5.2. Vendor shall maintain a banking account and receive payment by direct deposit if organized as a corporation, partnership, estate, trust, government entity, or non-profit organization or tax-exempt charity under IRC §501 (c) (3). An individual vendor or sole proprietor may opt to receive payment by debit card.
- 5.3. The DSS will not pay vendor activity or registration fees.
- 5.4. The DSS will not pay for any days the child is not present except as noted in 3.6 above.

6. BILLING

- 6.1. In order to receive payment, a completed and signed POSO must be returned to the local DSS.
- 6.2. All incorrect and/or incomplete attendance transactions must be reconciled prior to payment being made.
- 6.3. The Vendor shall have 30 business days from the receipt of payment to submit a dispute in writing (email or letter acceptable). The reason for the discrepancy and any documentation to support this claim must be included.
- 6.4. Vendor must bill the DSS for child care services rendered according to the rates signed on the POSO minus the client's established monthly co-payment, if applicable.
- 6.5. The parent shall be responsible for paying any rates that exceed the MRR or for billing that exceeds the allowable charges.

7. GENERAL CONDITIONS

- 7.1. **AUTHORITIES:** Nothing in this Agreement shall be construed as authority for either party to make commitments that will bind the other party beyond the scope of services contained herein. The Vendor shall not assign, sublet, or subcontract any work related to this Agreement or any interest they may have herein.

- 7.2. **DISCRIMINATION:** The Vendor will not discriminate against any client/child because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination.
- 7.3. **CONFIDENTIALITY:** The Vendor and the DSS agree that any information and data obtained as to personal facts and circumstances related to clients will be collected and held confidential in accordance with state and federal requirements, during and following the term of this Agreement, and will not be divulged without the individual's and the DSS' written consent.
- 7.4. **PERFORMANCES:** All services provided by the Vendor pursuant to this Agreement shall be performed to the satisfaction of the local DSS and the Department of Social Services, and in accordance with the applicable federal, state, and local laws, ordinances, rules and regulations. Vendor shall not receive payment for work found by the local DSS and DSS to be unsatisfactory, or performed in violation of federal, state or local laws, ordinances, rules or regulations.
- 7.5. **MODIFICATION OF AGREEMENT:** The DSS may issue written modifications to this Agreement, to include but not limited to, the scope of work, budget, deliverables, and compensation. Any and all modifications to this Agreement shall be in writing and signed by the parties named below or their official designee.
- 7.6. **AUDIT:** The Vendor agrees to retain for possible audit all books, records, and other documents relative to this Agreement for three (3) years after final payment. The DSS, its authorized agent, and/or State, Federal and local auditors shall have full access to and the right to examine any said materials during said period. If an audit is begun before the three-year retention period ends, records must be kept until the completion of the audit.
- 7.7. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the DSS shall be bound hereunder only to the extent of the funds available or which may become available for the purpose of this Agreement.
- 7.8. **OWNERSHIP OF MATERIALS AND DOCUMENTS:** Ownership of all data, material, reports, studies, or other documents prepared by the Vendor in the performance of its obligations under this Agreement shall remain the property of the DSS and shall not be copyrighted by the Vendor. The Vendor shall not use, willingly allow or cause to have used such material or data for any purpose other than the performance of the Vendor's obligations under this Agreement without the prior written consent of the DSS.
- 7.9. **DRUG-FREE WORKPLACE:** During the performance of this contract, the Vendor agrees to provide a drug-free environment. For the purposes of this section, "drug-free environment" means a site for the care of children provided in connection with this specific Agreement. This Vendor is prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract
- 7.10. **SMOKE FREE ENVIRONMENT:** Vendors certify that they will comply with the requirements of Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), which requires that smoking not be permitted in any portion of any indoor facility owned or leased or granted for by an entity and used routinely or regularly for the provisions of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant. The law does not apply to children's services provided in private residences, facilities funded solely by

Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

- 7.11. PAYMENT RECORDS: Vendor must make payment records available to parents.
- 7.12. FRAUD OVERPAYMENTS: Vendors will be permanently disqualified from participating in the Child Care Subsidy Program upon the first finding of Child Care fraud. Fraud includes, but is not limited to, intentionally providing false information to the DSS; intentional failure to notify the DSS of a change in circumstances that affects payments received by the Vendor; intentionally accepting payments that the Vendor knows, or by reasonable diligence would know, the Vendor is not entitled to by virtue of an overpayment or otherwise; intentionally making a claim for a payment to which the Vendor is not entitled pursuant to the terms of this Agreement and all applicable rules, regulations, laws and statutes. Repayment must be made unless contrary to a court order.
- 7.13. NON-FRAUD OVERPAYMENTS: Vendors that receive overpayments that are not the result of intent to defraud will be required by repayment agreement to repay the full amount. The vendor may continue to participate in the subsidy program as long as a repayment schedule is entered into with the local DSS and payments are made according to that schedule.

EXECUTION: IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

Vendor:
Address:

Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

By: _____
Print Name

Signature

By: _____
Print Name

Signature

Title:
Date:

Title:
Date: